



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON, D.C. 20370-5100

SMC  
Docket No: 07270-00  
7 December 2000

SGT [REDACTED] USMC  
[REDACTED]  
[REDACTED]

Dear Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 December 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 23 October 2000, a copy of which is attached, and your letter dated 19 November 2000.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB.

The Board found your command was not obligated to afford you an opportunity to take the physical fitness test (PFT) on dates other than those scheduled. They were unable to find the reviewing officer was incorrect in stating you were informed of the time and dates of the PFT. They found nothing objectionable in the sequence of events for adjudicating the adverse fitness report in question, noting the reviewing officer properly added his comments after you had provided your rebuttal statement. They observed that the version of the report showing the reviewing officer's signature on 18 April 2000 without comments is not the report of record. They found the reviewing officer added no new adverse information, but merely addressed issues raised by your rebuttal statement, so his comments did not have to be referred to you for acknowledgment and a chance to make a further statement. You are correct that because you were a student, section A.1h (billet MOS) of the contested fitness

report should have been marked "N/A," rather than "2673," and that your class standing and successful course completion, which were mentioned in section C, were incorrectly omitted from section I. However, the Board found these are not material errors warranting corrective action. The Board was unable to find any misspelling of your name on the third sighting officer's addendum page. The addendum pages attached to the fitness report as issue, other than your own rebuttal, were the Senior Marine Representative's administrative review and the third sighting officer's review. The Board found neither of these reviews added any new adverse information and, therefore, they did not warrant referral to you for acknowledgment and an opportunity to submit a further statement. Finally, the Board found no requirement to counsel you on the occasion of your receiving the fitness report at issue; nor did they find any requirement to issue you an Enlisted Substandard Performance Notification letter, as the authority for such letters, Marine Corps Order P1610.15B, was no longer in effect when the contested fitness report was submitted.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

7270-00  
IN REPLY REFER TO:  
1610  
MMER/PERB  
23 OCT 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
SERGEANT [REDACTED] USMC

Ref: (a) Sergeant [REDACTED] Form 149 of 23 Jun 00  
(b) MCO P1610.7E w/Ch 1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 18 October 2000 to consider Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 990914 to 000125 (FD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner states that while he does not contest the circumstances which cause the report to be adverse, on several occasions he asked to take a physical fitness test (PFT), but never was afforded that opportunity. To support his appeal, the petitioner furnishes several items of documentation.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Although the report at issue was submitted late, reporting officials are encouraged to correct all identified discrepancies prior to submission. No corroboration has been offered to support the petitioner's recollection of events. Had the Reviewing Officer truly believed the report contained administrative or procedural errors, he is charged with addressing those discrepancies with the Reporting Senior and ensuring they are corrected.

b. The Reviewing Officer stated the petitioner was told to take a PFT and he knew the times and dates available. Succinctly stated, as a Sergeant of Marines the petitioner was aware of his responsibilities and should have followed through. He did not and should remain accountable.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Sergeant [REDACTED] official military record.

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SERGEANT [REDACTED] BMC

5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance  
Evaluation Review Board  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps